

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

MARINE POWER HOLDING, L.L.C.

CIVIL ACTION

VERSUS

NO. 14-912

MALIBU BOATS, LLC

SECTION I

ORDER AND REASONS

The Court has pending before it a motion filed by plaintiff, Marine Power Holding, L.L.C., to strike “all witnesses from the witness list of Defendant Malibu Boats, LLC (‘Malibu’) that were not previously disclosed as potential witnesses in response to Marine Power’s Interrogatory No. 12.”¹ The Court also has pending before it a motion filed by defendant, Malibu Boats LLC, to exclude testimony by one of plaintiff’s experts, Ronald L. Gagnet, on the basis that during discovery plaintiff refused to produce financial records which were relied on by Gagnet when he formulated an opinion as to plaintiff’s damages.² The Court has received ample briefing as to both motions.³

Having reviewed the contentious briefing, the Court concludes that both parties have engaged in unsatisfactory and inefficient discovery conduct. However, the Court is not persuaded at this time that such conduct warrants exclusion of any witnesses. Rather, a more appropriate remedy is to allow both parties additional discovery regarding the purportedly untimely disclosed matters.

Furthermore, based on the present status of the case, which has been compromised by a lack

¹R. Doc. No. 74, at 1.

²R. Doc. No. 75, at 1-3.

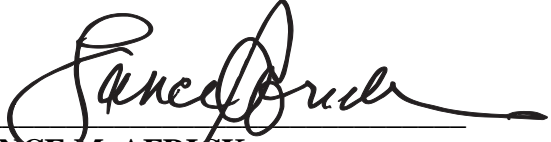
³R. Doc. Nos. 81, 86, 95, 96, 100, 102.

of civility by counsel for both parties,

IT IS ORDERED that the trial and pretrial conference dates in the above-captioned matter are **CONTINUED WITHOUT DATE**. The Court's case manager shall conduct a conference with the parties to select a new trial date and pretrial conference date. The Court's case manager shall issue a revised scheduling order setting forth new pretrial discovery deadlines, except with respect to the deadline for filing pretrial motions, including motions *in limine* regarding the admissibility of expert testimony, which deadline is **NOT** extended.

IT IS FURTHER ORDERED that the motion to strike the witness list and the motion to exclude testimony by Ronald L. Gagnet are **DISMISSED AS MOOT**.

New Orleans, Louisiana, February 19, 2016.



LANCE M. AFRICK
UNITED STATES DISTRICT JUDGE